



McCoolLawPLLC.com

Steven J. McCool

EMAIL smccool@mccoollawpllc.com
MOBILE 202 680 2440
OFFICE 202 450 3370
FAX 202 450 3346

1776 K STREET, NW, SUITE 200
WASHINGTON, DC 20006

January 20, 2021

BY ELECTRONIC CASE FILING

The Honorable Pamela K. Chen
United States District Judge
United States District Court
for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *United States v. Hernan Lopez and Carlos Martinez*, Case No. 15-cr-252
(Def. Nos. 32-33) (PKC)

Dear Judge Chen:

We represent Defendants Hernan Lopez and Carlos Martinez in the above-captioned case, pending before Your Honor. Through this letter, we move, in the Court's discretion, for an order extending the time within which Mr. Lopez and Mr. Martinez may file a motion seeking a bill of particulars. In the interest of efficiency, we jointly move on behalf of both Mr. Lopez and Mr. Martinez. Mr. Lopez and Mr. Martinez previously sought, and were granted, four extensions of time within which to file a motion for a bill of particulars. *See* ECF 1367; Apr. 16, 2020 Order; ECF 1386; May 19, 2020 Order; ECF 1424; July 29, 2020 Order; ECF 1450; October 27, 2020 Order. Mr. Lopez and Mr. Martinez's Motion for a bill of particulars is currently due on February 3, 2021. Rule 7(f) of the Federal Rules of Criminal Procedure states that "[t]he defendant may move for a bill of particulars before or within 14 days after arraignment *or at a later time if the court permits.*" Fed. R. Crim. P. 7(f) (emphasis added). The "purpose of a bill of particulars is 'to inform a defendant of charges with sufficient precision to allow preparation of a defense, to avoid unfair surprise, and to preclude double jeopardy.'" *United States v. Barrera*, 950 F. Supp. 2d 461, 477 (E.D.N.Y. 2013) (quoting *United States v. GAF Corp.*, 928 F.2d 1253, 1260 (2d Cir. 1991)).

The 53-count Superseding Indictment in this case charges Mr. Lopez and Mr. Martinez and fifteen other defendants with conspiracy to commit wire fraud, conspiracy to commit money laundering, and eleven charges of wire fraud. Mr. Lopez and Mr. Martinez were arraigned on April 9, 2020 and entered pleas of not guilty to all charges against each of them. During the arraignment, the Court designated this matter as a complex case. As of the filing of this letter, the government has provided ten discovery productions, totaling 18,864,759 pages. It is counsel's

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understanding that the government is still in the process of completing its initial discovery productions to the defense. Counsel will need time to review the government's voluminous discovery productions, and the remainder of the government's productions when they are produced, to draft, if necessary, an effective motion for a bill of particulars. Additionally, counsel for Mr. Martinez is scheduled to begin a jury trial in the United States District Court for the District of Columbia on March 22, 2021, and therefore, will continue to review the government's voluminous discovery while simultaneously preparing for the March 22, 2021 trial. Given this, Mr. Lopez and Mr. Martinez request a 90-day extension to May 4, 2021 to file a motion for a bill of particulars.

On January 19, 2021, Mr. Martinez sought the government's position on the relief requested herein. Assistant United States Attorney Kristin Mace provided the following position on behalf of the United States: "The government's position is that the defendants are in a position to file a motion for a bill of particulars now if they choose to do so, and that the remaining discovery is not necessary for them to determine whether the indictment is too vague to inform the defendants of the nature of the charges against them or to determine whether there are any potential double jeopardy challenges. Nevertheless, the government has no objection to the requested 90-day extension."

This is the fifth request for an extension of time on behalf of Mr. Lopez and Mr. Martinez.

Wherefore, for the reasons cited herein, it is respectfully requested that the Court grant this application and issue an Order extending the time within which Mr. Lopez and Mr. Martinez may file a motion seeking a Bill of Particulars from February 3, 2021 to May 4, 2021.

Sincerely,



Steven J. McCool
Counsel for Carlos Martinez
Matthew D. Umhofer
Counsel for Hernan Lopez

cc: Counsel of record (by ECF)